

APPLICANT(S): Roman VITENBERG  
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### **REMARKS**

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

### **Status Of Claims**

Claims 26 - 45 are pending in the application and have been rejected. Claims 35, 36 and 42 have been amended. New claim 46 has been added.

Applicant respectfully asserts that the amendments to the claims add no new matter.

### **CLAIM REJECTIONS**

#### **35 U.S.C. § 112 Rejections**

In the Office Action, the Examiner rejected claims 36 and 42 under 35 U.S.C. § 112 Second Paragraph, for having insufficient antecedent basis for the limitation "said control signal" in line 1, Claim 36 and for the limitation "said transmitting line", in line 1, Claim 42.

New claim 46 has been added and claim 36 made dependent therefrom.

Claim 42 has been rewritten.

Claim 35 has been amended to correct a typographical error.

Applicant respectfully asserts that these amendments render claims 36 and 42 proper under 35 USC §112 and request that the rejections be withdrawn.

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### 35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 26-33 and 39-45 under 35 U.S.C. § 103(a), as being unpatentable over Cheng et al U.S. Patent No. 6,456,650 in view of Olshansky et al U.S. Patent No. 6,633,572.

Additionally, the Examiner also rejected claims 36-38 under 35 U.S.C. § 103(a), as being unpatentable over Cheng et al U.S. Patent No. 6,456,650 in view of Olshansky et al U.S. Patent No. 6,633,572.

Applicant respectfully traverses the rejection of claims 26-33, 36-38 and 39-45 because a prima facie case of obviousness has not been established.

The combination of Cheng and Olshansky does not teach or suggest all the limitations of independent claims 26, 39 and 43, nor does it teach or suggest all the limitations of dependent claims 27-33, 36-38, 40-42 and 44-45. Claim 26 recites, "a network modem to communicate along an upstream frequency band of said xDSL line with at least one other NDSL modem" (lines 4-5). Claim 39 also recites "communicating data among said at least two NDSL modems" (line 7). Additionally, Claim 43 recites "when communication between at least two NDSL modems connected to said telephone line" (line 3). Cheng does not teach a communication with other modems of the same type, since Cheng states, "the wire line pair is used to connect subscriber side equipment such as the DSL modem and POTS to the central office (emphasis added)" (col. 3 lines 33-35). Cheng teaches a device which communicates with the central office, and not with another modem connected on an xDSL line.

Olshansky is also silent as to the communication with another modem. The communication of Olshansky does not take place on a xDSL line, rather Olshansky "converts the ADSL data signals to conventional 10 Base T Ethernet format and delivers the converted signals over 10 Base T wiring" (Col. 4, lines 5-7). 10 Base T wiring is an

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Ethernet line, and not an xDSL line. Thus, neither Cheng nor Olshansky, alone or in combination, teach or suggest the invention of independent claims 26, 39 and 43.

Accordingly, Applicant respectfully asserts that amended independent claims 26, 39 and 43 are allowable. Claims 27-33, 36-38, 40-42 and 44-45 depend from, directly or indirectly, claims 26, 39 and 43, and therefore include all the limitations of those claims. Therefore, Applicant respectfully asserts that claims 27-33, 36-38, 40-42 and 44-45 are likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections to amended independent claims 26, 39 and 43 and to claims 27-33, 36-38, 40-42 and 44-45 dependent thereon.

### **35 U.S.C. § 102 Rejections**

In the Office Action, the Examiner rejected claims 34-35 under 35 U.S.C. § 102(e), as being anticipated by Cheng et al U.S. Patent No. 6,456,650. Applicant respectfully traverses this rejection in view of the remarks that follow.

Cheng discloses "the wire line pair is used to connect subscriber side equipment such as the DSL modem and POTS to the central office (emphasis added)" (col. 3 lines 33-35). Cheng does not teach or suggest "a network modem to communicate along an upstream frequency band of said xDSL line with at least one other NDSL modem" (lines 5-6) (emphasis added), as recited in independent claim 34. Therefore Cheng cannot anticipate claim 34.

Accordingly, Applicant respectfully asserts that independent claim 34 is allowable. Claim 35 depends on, directly or indirectly, claim 34, and therefore includes all the limitations of that claim. Therefore, Applicant respectfully asserts that claim 35 is likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections to independent claim 34 and to claim 35 dependent thereon.

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Applicants note that none of the amendments to the claims herein are in response to the above discussed prior art rejections.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

**Petition For One-Month Extension Of Time Under 37 CFR 1.136(a)**

The period for responding to the instant Office Action was set to expire on June 4, 2004. Applicant hereby requests that the period for responding to the instant Office Action be extended by one (1) month, so as to expire on July 4, 2004. Accordingly, this response is being timely filed. The fee for a Petition for a One-Month Extension of Time is Fifty-Five Dollars (\$55.00) dollars for a small entity.

**Authorization to Charge Deposit Account**

The United States Patent and Trademark Office is hereby authorized to charge Deposit Account 501380 in the amount of \$55.00 and any additional fee which is necessary in connection with the filing of this amendment and petition.

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Favorable action on this amendment and petition is courteously solicited.

Respectfully submitted,



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